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LOUIS M. BUBALA III, ESQ.
Nevada Bar No. 8974
KAEMPFER CROWELL
50 W. Liberty Street, Suite 700
Reno, Nevada 89501
Telephone: (775) 852-3900
Facsimile: (775) 327-2011
Email: lbubala@kcnvlaw.com

Attorneys for Secured Creditors
Owens Financial Group, Inc.,
Seventeen Enterprises, LLC, and
Pacifica Land Conservation, LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

ROCKAWAY WORKFORCE HOUSING
PARTNERS, LLC,

Debtor.

Case No.: BK-N-18-50535-btb
Chapter 11
**NOTICE OF FILING TRANSCRIPT OF
FIRST MEETING OF CREDITORS
CONDUCTED JUNE 18, 2018**

Hearing Date: N/A
Hearing Time:

Kaempfer Crowell obtained the audio recording of the Chapter 11 creditors meetings from the Office of the U.S. Trustee and engaged Peggy B. Hoogs, a certified court reporter, to transcript the hearing conducted on June 18, 2018. The transcript is attached hereto.

Dated this 23rd day of August, 2018.

KAEMPFER CROWELL

By: /s/ Louis M. Bubala III
LOUIS M. BUBALA III, ESQ.
Attorneys for Secured Creditors
Owens Financial Group, Inc.,
Seventeen Enterprises, LLC, and
Pacifica Land Conservation, LLC

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

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IN RE: Case No. BK-18-50535-btb
ROCKAWAY WORKFORCE HOUSING Chapter 11
PARTNERS, LLC,
Debtor.

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TRANSCRIPTION OF AUDIO-RECORDED PROCEEDINGS

341 MEETING

Monday, June 18, 2018

Reno, Nevada

Transcribed By: PEGGY B. HOOGS, CCR #160, RDR, CRR

-oOo- APPEARANCES -oOo-

FOR THE DEBTOR:

WHITE LAW CHARTERED
By: JOHN WHITE, ESQ.
335 West First Street
Reno, Nevada 89503

FOR THE CREDITORS PACIFICA LAND CONSERVATION, LLC and
SEVENTEEN ENTERPRISES, LLC.

KAEMPFER CROWELL
By: LOUIS M. BUBALA III, ESQ.
50 West Liberty Street, Suite 700
Reno, Nevada 89501

U.S. TRUSTEE:

NICK STROZZA
Assistant United States Trustee

ALSO PRESENT:

JOHN HICKEY

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RENO, NEVADA; MONDAY, JUNE 18, 2018

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U.S. TRUSTEE STROZZA: Good afternoon. I'm Nick Strozza. I'm the Assistant U.S. Trustee. It's June 18th. It's about 2 p.m.

This is the first meeting of the creditors scheduled for the case of Rockaway Workforce Housing Partners, LLC. It is Case No. 18-50535.

The meeting is being electronically recorded, so you need to answer audibly for it to get picked up. Shaking heads and stuff like that doesn't really work. There's an attendance sheet for creditors to sign in on.

I'll go through some basic questions, maybe go through your schedules a little bit, and then I'll turn it over to counsel who's present -- and I'll get your appearances in a second -- and they may ask some questions, too.

Counsel, can you identify yourself for the record?

MR. WHITE: I'm John White with White Law Chartered, counsel for the debtor, proposed counsel for the debtor.

1 U.S. TRUSTEE STROZZA: Okay. Would the
2 representative of the debtor state your name and your
3 position or title with the debtor.

4 MR. HICKEY: John Hickey. I'm president of
5 Rockaway Workforce Housing Partners, LLC.

6 U.S. TRUSTEE STROZZA: And would you please
7 stand and raise your right hand or just raise your right
8 hand. You don't have to stand.

9 (Mr. Hickey was sworn.)

10 U.S. TRUSTEE STROZZA: Counsel, we have one
11 counsel present. Why don't you make your appearance for
12 the record.

13 MR. BUBALA: Louis Bubala with Kaempfer
14 Crowell, counsel for Seventeen Enterprises, LLC and
15 Pacific Land Conservation, LLC.

16 U.S. TRUSTEE STROZZA: Okay. Great.

17 Counsel, we spoke a little bit briefly before
18 this meeting, and you've submitted your employment
19 application. Thank you. I'll take a look at that and
20 get back to you if we have any issues with that.

21 /////

22 /////

23 /////

24 /////

1 JOHN HICKEY,
2 having been first duly sworn,
3 was examined and testified as follows:
4

5 EXAMINATION

6 BY U.S. TRUSTEE STROZZA:

7 Q Mr. Hickey, did you help prepare the schedule
8 of assets and liabilities that have been filed in this
9 case?

10 A Yes, I did.

11 Q Did you sign them?

12 A I believe so, yes.

13 Q Okay. And to the best of your knowledge, are
14 they truthful and accurate?

15 A Yes, they are.

16 Q Are there any changes that you know of today
17 that need to be made to them?

18 A Not at this time.

19 Q Tell me why the debtor -- and if I say "you," I
20 mean you the debtor, not you personally in this, if I get
21 a little colloquial on that.

22 What caused this debtor to file bankruptcy?

23 A It has -- well, it was in foreclosure for an
24 existing note and deed of trust that -- the note is

1 secured by one of the assets of the entity.

2 Q Let me back up.

3 What does this debtor own and do, or what is
4 this debtor?

5 A This debtor owns land, and it's going to
6 develop for workforce housing, and it's like affordable
7 housing, but it's a little higher income, and it also has
8 the rights to a 6-acre parcel of commercial property that
9 is currently owned by the State -- well, State of
10 California has title to it.

11 The Rockaway Workforce owns all the abutter
12 rights to that property. We've got unlimited
13 egress/ingress over that property, and as of a couple of
14 months ago, the State of California has given the City of
15 Pacifica, which is where the property is located, they
16 sent them a letter telling them we are authorized to
17 submit any development plans we want for that parcel
18 because they're in the process of transferring title to
19 us.

20 Q Now, did you have to pay for that parcel or it
21 just goes back to you --

22 A Under the code section, under the code section,
23 which Caltrans sent me, it says it has to go at appraised
24 fair market value. However, since we own all the

1 abutter's rights, it is of zero value to Caltrans. So
2 the value to us is very high; the value to Caltrans is
3 zero. They can't -- in the code section they sent me,
4 they can't even sell it to anybody else or give it to
5 anybody.

6 Q Okay. When did the debtor buy this property
7 and for how much?

8 A We paid -- this property was acquired with four
9 other smaller parcels which totaled about 3 acres. The
10 parcel we owned, this 620 parcel, it's actually 56 acres,
11 the one that's secured -- is used as security with the
12 installment note. There's 56 acres. There were four
13 other parcels that were acquired along with it. They
14 total about 3 acres. We paid the credit -- secured
15 creditors 8.1 million for that property, and to date
16 we've made them about 4.6 million in cash.

17 Q So the purchase price was the 8 million?

18 A 8 point -- exactly.

19 The Caltrans property was not included in that
20 at all. I mean, we were -- our contract, which I
21 brought, includes the -- specifically includes the right
22 to the Caltrans property because there is a linkage under
23 the California code to that property because of what --
24 Caltrans has to go through the steps, but that's the

1 limitations placed on Caltrans, that's not the
2 limitations placed on the owners of the property.

3 So that property has a completely different
4 additional value that was not included in the purchase
5 price.

6 Q So what kind of land is it? Is it --

7 A The 56 acres?

8 Q It's raw land, but, I mean, is it trees? What
9 does it look like?

10 A The 56 acres is a sloping hillside. In fact,
11 on the back end it goes pretty high, but -- and Pacifica,
12 it's all rolling hills, and we've got -- it's all zoned
13 residential except the Caltrans property, which is
14 adjacent to Highway 1. It abuts Highway 1 with 700 feet
15 of frontage, and that property is -- the elevation on
16 there is -- it still is an incline, but it's nothing like
17 the -- about half a mile in, the property really starts
18 to climb.

19 Q And you indicated -- I'm sorry if I'm jumping
20 around a little bit, but you indicated that the
21 development is for a workforce housing or low-income
22 housing?

23 A Correct. We had initially proposed 12 units of
24 affordable housing to the City of Pacifica, and when we

1 went around to the different community groups -- we went
2 and we spoke to them about doing that kind of housing --
3 the groups we spoke with, they actually were not
4 interested in the affordable housing.

5 There's a housing crisis in Pacifica, but they
6 don't necessarily meet the definition that's required for
7 the affordable housing at 30 percent AMI, 50 percent AMI.
8 What they wanted was something that was more akin to rent
9 control, and they just last November had a rent control
10 measure on the ballot that failed.

11 So what they asked us to do was to basically
12 put on some type of workforce housing that would be tied
13 to the area HUD fair market rent that they publish every
14 year for that particular region. So the idea, when that
15 portion of this goes forward, would be to put housing in
16 there that is actually tied to the local HUD FMR, you
17 know, in terms of setting rents for the thing since rent
18 control -- well, it's not legal in Pacifica, they didn't
19 didn't pass it, and it's not that we can't do affordable
20 housing; it's just that they didn't want it because then
21 they wouldn't meet the income -- at least the groups we
22 met with, they don't meet the 30 percent and the
23 50 percent. So we were pretty much down to creating some
24 kind of a hybrid.

1 The Caltrans property is completely separate
2 and will not be developed by the same entity at all.

3 Q Okay. Now, when you talk about development, is
4 this just an idea? Are there plans? Are there
5 renderings?

6 A Oh, yeah. It's been fully engineered,
7 definitely. The only thing that we haven't -- in fact,
8 we've got -- for the Caltrans site, we've got an assisted
9 living ALMC developer that wants 2 acres -- of the
10 6 acres, they want 2 acres. We've got a letter of intent
11 from these guys for \$6 million just for two acres of that
12 parcel.

13 Q Right. What's the cost of development? What
14 is your projected cost to develop this property and where
15 is that money coming from?

16 A Well, we have to put in a road from -- we have
17 to put in a roadway off of Highway 1 up through the
18 Caltrans site, and the 56 acres is behind the Caltrans
19 site. So the Caltrans site is a big rectangle. 56 acres
20 is up here. Due to the topography, the -- actually, the
21 only place you can really enter the 56 acres is, like, in
22 the upper right-hand corner, so you -- we've got to come
23 in off Highway 1, it's about 300 feet deep, and at that
24 point we hit the property line for the 56 acres. It's

1 going to cost us about 2-, 2-1/2 million to get the
2 intersection here and get the roadway up into the
3 Caltrans site. We don't need to continue into the
4 56 acres -- that can stop right there, we can stub it
5 out -- until that project goes forward.

6 So for this here with retaining walls and
7 everything, it's going to be about 2-1/2 million to get
8 that roadway up in here, okay. For the -- our plan --
9 well, we're going to do a formal plan -- but is
10 essentially to, from the -- like from the property sales
11 here, it will take those guys about nine months to a year
12 max to get their assisted living development approved in
13 Pacifica, and, again, it's on the Caltrans site, which
14 means they can submit their plans right now.

15 So that's 2 million cash at close of escrow.
16 We owe the secured creditors a million eight, and come
17 August 31st of this year, we owe them right now about
18 500,000, and we've got a partner that is actually
19 taking -- is going to -- is acquiring 50 percent of what
20 we're doing as we put up the money to give them the
21 500,000 we owe them.

22 Q So let's go back to the question I asked, and
23 I'll circle back around.

24 A Sorry.

1 Q No, no.

2 Why did you file bankruptcy?

3 A Well, there's -- like I said, they were
4 foreclosing, and we had attempted to pay off that note,
5 okay. We did two things. We wanted to pay off the note
6 and we wanted to buy the note from them, okay, which we
7 have the right to do.

8 There is an issue in this, which is when we
9 went into this contract to buy the property back in 2015,
10 they put in a clause that said there was -- again, they
11 had been planning on doing a conservation easement, and
12 the entity that owned this property was called Pacifica
13 Conservation or whatever the heck the name of that was,
14 okay, but Congress -- that law used to -- it used to
15 sunset, it had a sunset provision. Every now and then
16 the thing would expire.

17 So in 2015 when we went into contract, the law
18 had expired and the conservation easement deduction for
19 IRS purposes did not exist at that time. So when we
20 negotiated the contract -- we entered into the contract
21 in June of '15 -- we had negotiated the price, and they
22 had been planning out -- the sellers, which were also the
23 secured creditors, had been planning on doing a
24 conservation easement somewhere on the property.

1 So as we got through the contract, we
2 negotiated the price, and then they said, "Well, okay.
3 Look, there's a possibility that Congress may someday in
4 the future put that conservation easement legislation
5 back in place," so there's a provision in our contract
6 that says -- and we were supposed to close in -- in
7 August of 2016, a year after we went into contract, a
8 year plus, which we did. We closed, I think it was,
9 September, and so in June of '15 this provision was put
10 in the contract that said, okay, if sometime between
11 December 31st of 2016, after we close escrow, and the
12 time the installment note was to be paid off, which was
13 September of 2020 because it's got one payment annually,
14 okay, if at any time in between there Congress puts the
15 conservation easement law back into effect, then we, the
16 buyers, have the option of deciding if we want to do a
17 conservation easement. And if we do -- and it's totally
18 up to our discretion -- if we want to do it, they are
19 entitled to 50 percent of whatever the deduction is,
20 whatever the deduction is, okay.

21 And there was no description of that
22 conservation easement has to be this big, what it has to
23 be, nothing. Okay. It was undefined.

24 So if we did the conservation easement, they

1 were entitled to 50 percent of the deduction. If we
2 decide -- again, this assumes Congress put the law back
3 in -- if we decide we don't want to do the conservation
4 easement and the law is effective again, we owe them a
5 million dollars as basically a buyout fee for not doing
6 the conservation easement.

7 Somewhere in there after we went and we were in
8 contract -- I think it was during 2016 -- Congress was
9 redoing a bunch of the renewable energy tax benefits and
10 whatnot, and so they actually -- they made permanent --
11 it turns out they made permanent the conservation
12 easement deduction in 2016. At least -- I mean, it says
13 it's permanent, okay, no more sunset clause.

14 So when we went to close escrow, again, you --
15 and it was all very detailed in the note and in our
16 purchase contract which had terms of the note that if
17 the -- the extra million dollars is going to be in here
18 in the note itself because we had until 2020 to decide,
19 and then there was -- let's see -- they had --

20 Q So there's a dispute between you and them with
21 regards to this million dollar conservation issue?

22 A Correct.

23 Q That needs to be resolved?

24 A Correct.

1 Q And you're attempting to use the bankruptcy
2 potentially to help resolve that?

3 A Yes. And there's also an issue with the
4 Caltrans property we would potentially like to get
5 resolved.

6 Q So you owe them what, a million something in --
7 when was your first installment due? When was your last
8 installment?

9 A The first installment was due in August of '17,
10 and in September of '17 we paid them about 1.6 million,
11 1.5 -- 1.5, 1.6 million.

12 Q You were about 100,000 short?

13 A No. We were actually -- somehow we were
14 \$376,000 short.

15 Q Okay.

16 A And we signed a forbearance agreement until
17 December 31st, and on our end -- and they gave us -- the
18 note also has partial lien releases on dollar-for-dollar
19 collateral.

20 So when they got that payment, that was all
21 that was required to get the last of the four small
22 parcels to go -- to get released from the note and free
23 and clear. So they recorded a deed of reconveyance, and
24 they got the 1.5, 1.6 million, and we had a forbearance

1 agreement for 376,000.

2 We couldn't pay them on December 31st, so on
3 January 19th they recorded the NOD on the property to go
4 forward. Subsequent to that and somewhere in there, I
5 made at least two proposals to the secured creditors.
6 One was to let us come in and put a new first on the
7 property, and then they would continue to -- and their
8 note has this million dollar conservation easement figure
9 in there -- was to let us put a new first on the
10 property. They would get paid off most of what they were
11 owed, but they would end up taking a second for -- I
12 can't remember what the -- what the figure was. It might
13 have been a million five or something to that effect. I
14 really don't remember what that figure is.

15 After that I went to them sometime, I believe
16 it was in April or -- might have been in -- must have
17 been in April, I think, and we said, "Okay. Look, we'll
18 pay you guys -- we had a lender lined up to put the money
19 in for this." We said, "We'll give you \$3.8 million for
20 the \$4.8 million note that's due. The million dollars is
21 the conservation easement cancellation fee."

22 So I told them, we said, "We'll give that to
23 you."

24 And their response was, "No. We'll take the

1 3.8 million, and we'll give you the million dollars less,
2 but you have to give -- you have to do the conservation
3 easement and you have to give us the first \$10 million
4 worth of deduction, and then we'll agree to take the
5 3.8 million.

6 Well, what I started to tell you earlier about
7 the conservation easement deduction is that they put it
8 in the contract as additional revenue to them. Unless
9 you are on title, you cannot take a deduction for the
10 conservation easement. It's impossible.

11 Q Okay.

12 A So that -- that clause is of no value to them
13 whatsoever, none. I mean, they could force us to go out
14 and put a conservation easement on the property of some
15 amount, but it would only be in spite because they're not
16 entitled to the conservation easement because they can't
17 take it.

18 And then here it had transgressed to, okay, we
19 were offering them dollar for dollar on the note -- they
20 wouldn't take it -- dollar for dollar aside from the
21 million dollar conservation. They wouldn't take it.

22 Now, we're entitled to pay them off early.
23 They wouldn't take it. They were going forward on
24 foreclosing on the note. They know where I'm at with the

1 Caltrans people. I've been -- for three years I've been
2 working on that, getting that property from those guys,
3 since we went into contract. They've now given us a
4 letter three months ago, which they know I have, to go
5 ahead and process our plans through the City and, you
6 know -- so this -- I mean, we got to get this resolved
7 because we tried to pay them off.

8 Q Okay. I think I'm getting a good picture of
9 it.

10 So just in terms of the operation, it's just
11 raw land? You have no insurance on it because it's just
12 raw land?

13 A Right.

14 Q The lender may have placed insurance on it or
15 maybe not even?

16 A Yes. We had force-placed insurance.

17 Q Force-placed insurance.

18 There's no debtor-in-possession bank accounts
19 because there's no money at this time. There's no
20 employees.

21 A Everything paid for -- we've been paying for it
22 in other entities. All the engineering fees over the
23 years, legal fees, everything, it's all been paid for in
24 other entities.

1 Q There's no utilities involved with the
2 property, anything like that?

3 A Huh-uh.

4 Q Any employees, I said.

5 And the debtor maintains its own books and
6 records?

7 A Oh, yeah.

8 Q And we've made -- we've closed those out or
9 made a demarcation at the time of the petition so we can
10 kind of --

11 A Right.

12 Q Okay. That was explained to you.

13 And it's what, an LLC, so the taxes are all
14 what, all pass-throughs or how's -- well, you guys filed
15 your own; right?

16 A Yeah. Yeah. We've got the --

17 Q You got a partnership tax return; right?

18 A Right.

19 Q Okay. And I think you only did it for half a
20 year, though, so you still owe for next --

21 A Yeah. Because Rockaway Workforce, when we --
22 on the note there were two sellers. They had two
23 entities, Seventeen and the conservation, okay.
24 Seventeen owned the four parcels, the conservation entity

1 owned the 56 acres, and when we got that from them, we
2 used -- we used two entities as well because we don't
3 want -- under the Subdivision Map Act in California, we
4 don't want the parcels to merge, so we used two entities
5 to buy from their two entities.

6 The note was one note, it had both entities
7 named, and it had all the collateral in there, so when --
8 after the payment was made in September of the last
9 million five or whatever it was, then they went and
10 Rockaway Workforce, there was -- there were two partners
11 in there, okay, and so one of the partners who's listed
12 on the return, one of the partners said, "Hey, you know
13 what? Look, we'll -- we're happy to just take these four
14 parcels, these four small parcels, the 3 acres, we're
15 happy to go our own way." So they did. So they had an
16 allocated price of 4.6 million -- it's attached as an
17 exhibit to the note -- and they took those four parcels
18 and went their separate way.

19 Rockaway Workforce still has the 56 acres and
20 all the rights to the Caltrans property. So that
21 happened right in September when that was done, so that's
22 why we had to file a short -- a final year, because of
23 the one -- when so much of the percentage of the LLC is
24 changing hands, the IRS makes you file a final return.

1 Q Okay.

2 A So that's all that was about.

3 Q Okay. So tell me a little bit more on the
4 transfer out. So you had this 4-acre parcel which was
5 made up -- which was --

6 A There were four parcels, 3 acres in total.

7 Q And who got that and what was the consideration
8 for that?

9 A \$4.6 million was for 3 acres of property right
10 next to the Caltrans property.

11 Q Okay.

12 A And that went to one of the -- one of the
13 members, Rockaway Highlands. They took that and they
14 walked away from Rockaway Workforce. They gave away
15 their interest in Rockaway Workforce, and they gave up
16 their interest in Rockaway Affordable, which used to own
17 those four parcels. Rockaway Affordable is now just a
18 shell entity, there's nothing in it. Rockaway Workforce
19 has the 56 acres plus the rights to the Caltrans parcel.

20 So they took that for 4.6 million, they went
21 their way. Rockaway Workforce is over here --

22 Q And you don't need those 4-acre parcels to do
23 any development, anything?

24 A No, nothing, nothing. And like I said, the

1 creditors, they executed a deed of reconveyance on the
2 last of the four parcels when they got the million five
3 or million six last year.

4 Q So everybody is happy with that transaction?

5 A Right.

6 Q There's no disputes or --

7 A No.

8 Q Okay. You talked about having to resolve it.
9 There's no pending litigation in state court or anywhere
10 else, federal court, with respect to the parties here?

11 A No.

12 Q No, okay. And to the extent there is
13 litigation, it's going to -- your intent was what, to
14 file it in the bankruptcy court here or to resolve --

15 A If necessary, unless we could resolve this
16 here, because we did try to pay them off in full, so --
17 and there is an issue with the Caltrans property, like I
18 said. Under the state -- for the streets and highways
19 code -- and Caltrans sent me the code sections that
20 they're using -- with that appraisal mechanism that's in
21 there, that is a lot of source of equity for us to pay
22 the installment note that's due to the secured creditors.

23 And so we were hoping we could get some sort of
24 supervision in the bankruptcy court to make sure that

1 they actually give the proper instructions to the
2 appraiser instead of -- I mean, it's the State of
3 California. It's like -- so they have no -- there's no
4 interest in it, I mean, in terms of -- so we just want
5 to make sure the proper instructions go to the appraiser
6 so they don't end up appraising it for what it's worth to
7 us versus what it's worth to them.

8 Q Got it.

9 A Okay.

10 Q What's a realistic time frame on that Caltrans
11 part?

12 A They told me they need another -- just last
13 week they told me in an email that they need another
14 45 days to complete the circulation because it goes to
15 about 20 department heads for comments when they're going
16 to decertify a piece of property, and they told me they
17 need about another 45 days for circulation and comment,
18 and then it will actually go through the decertification
19 process. The whole thing should be over in, I'd say, six
20 months because they've been working on it since January.

21 Q Okay.

22 A And I'm working with the deputy district
23 director for Caltrans in charge of rights-of-ways and
24 easements, I mean, so that's -- so -- and they have --

1 they have -- Caltrans is getting rid of all of their
2 property rights along Highway 1 in this district, and the
3 guy that's actually handling this, he was the deputy
4 district director. He retired.

5 The new guys brought him back in on a
6 consulting agreement to do one thing, which is dispose of
7 all Caltrans property rights along this highway, this
8 district. So that's who I'm dealing with. He used to be
9 the deputy district director. I mean, that's his sole
10 job is to focus on getting rid of these properties.

11 So they told me they have -- they started on
12 this process in January, and like I said, I just got an
13 email that said they've got about 45 days of comments
14 left.

15 Q Okay. You put a value of about \$29 million on
16 the property. There's not a written appraisal to that
17 effect or anything like that; right?

18 Q The creditors, secured creditors, had Cushman
19 Wakefield appraise the property before they sold it to us
20 for 20.3 million valuation. They had it appraised for
21 the conservation easement that they wanted to do. And
22 the Caltrans property is worth 8 million -- it appraised
23 out at 8,800,000, something like that, for the Caltrans
24 property, and like I said, the 3 acres next door were --

1 4.6 million that was valued at.

2 Q So their 20- plus the 8- for the Caltrans gets
3 you close to the number?

4 A That's what it was. And on the forms, for the
5 million dollar reduction we wanted for the note, it
6 required us for some reason to list that million dollars
7 as an asset. I didn't understand why.

8 Q Okay.

9 A So that could be off by a million dollars
10 because of what it required.

11 U.S. TRUSTEE STROZZA: Okay. And then,
12 Counsel, are we in a single-asset real estate case
13 situation here?

14 MR. WHITE: As far as I can tell at this
15 time -- and I'm not an expert on it, but I've been
16 reviewing some cases in re --

17 U.S. TRUSTEE STROZZA: I'm just saying, it
18 might be -- we may need to consider --

19 MR. WHITE: The property is not single asset
20 at this time. The best I can tell at this time, because
21 of the issues that he mentioned about the State of
22 California, we have rights to that property.

23 BY U.S. TRUSTEE STROZZA:

24 Q So you think it's -- it's two pieces of

1 property rather than one?

2 A Well, it's whatever --

3 Q I gotcha.

4 A Yeah, it's consideration. If it is, then
5 there's time -- time is ticking on that in terms of -- in
6 terms of the secured creditor.

7 And it's not the same project because we're not
8 even developing the 56 acres now. We're developing the
9 Caltrans property is what we're going to do. Because
10 that's close to the highway, it's the smallest amount of
11 money, I mean to get the infrastructure and to be able to
12 sell off the parcel.

13 So the 56 -- all we're going to do is stub out
14 the road, so that's not -- when that thing goes forward,
15 we're not even sure what's going to happen.

16 Q Is one of the options just to sell the whole
17 thing?

18 A Well, like I said, it's like with the assisted
19 living guys here, the ALMC, I mean, we are selling off a
20 2-acre piece to them for \$6 million and we've got -- that
21 leaves us almost another 4 acres. We do have other
22 people that are interested in it, but in general we
23 haven't reached an agreement with anybody else yet.

24 So, I mean, that -- that's probably what we'll

1 do going forward. We are considering putting senior
2 housing on there, but, again, we don't have anything
3 specific right now.

4 U.S. TRUSTEE STROZZA: Okay. I just have one
5 more question, I'll turn it over, and then I'll review my
6 notes as counsel is asking you.

7 The debtor understands the obligation to pay
8 quarterly fees --

9 MR. WHITE: Yes.

10 U.S. TRUSTEE STROZZA: -- and understands its
11 obligation to file monthly operating reports? It will
12 probably be pretty simple, but you haven't retained --
13 are you retaining an accountant to prepare -- the debtor
14 is going to do it?

15 MR. WHITE: The debtor is going to do it as far
16 as I know.

17 U.S. TRUSTEE STROZZA: That's all the questions
18 I have at this time. Why don't I turn it over to
19 counsel.

20 Why don't you identify yourself again for the
21 record, and I'm just going to flip through my notes as
22 you ask some questions.

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EXAMINATION

BY MR. BUBALA:

Q So, again, my name is Lou Bubala. I work with Kaempfer Crowell here in town. I've been hired by Pacifica Conservation and Seventeen Enterprises, LLC to represent them in this bankruptcy case.

So I've got some documents. I'll start by going through some of these and asking you some questions on it.

I'll pull out a copy of the Installment Non-Recourse Non-Negotiable Promissory Note listed at 6,332,295 -- I'm sorry -- \$6,332,295 dated August 29, 2016.

John, here's a copy.

Mr. Hickey, here's a copy.

Mr. Hickey, are you familiar with this note?

A I just -- I don't believe this is the right copy. We had to replace the note. I was helping these guys do a 1031 exchange after we did -- we agreed in our contract to the installment note, and what happened was they were going to -- at the last minute they decided they were going to do a 1031 exchange, and so they had the note go to their intermediary, which is named on here.

1 Then they went and they got financing against
2 the note so they could get cash to close on their
3 exchange property up in Oregon, and we helped them
4 accommodate that. I had to do an addendum to the note
5 for their secured creditor, and I'm not seeing that here.
6 And on top --

7 Q I'm sorry. Can you state first, what is
8 incorrect about this note?

9 A This isn't the right note.

10 Q What is --

11 A Because we had to replace the whole note.
12 Their exchange company lost the original note.

13 Q So the original note is not -- it's a different
14 date? What changed in it? Show me something in here or
15 identify something in here that makes you think this is
16 not the correct number.

17 A Well, it's dated August 29th.

18 Q What date do you believe it should be dated?

19 A August 31st. And we -- we did a whole new
20 note. We did an absolute brand new note --

21 Q Okay.

22 A -- and a new deed of trust. They did a deed of
23 reconveyance on the original deed of trust, and we
24 executed a new deed of trust, and we executed a new note

1 for them with a different date than this. There's an
2 addendum to that note that we did.

3 Q I'm not asking about the addendum right now.

4 What changed in the modification, in your
5 belief, between this note dated August 29th and the note
6 you say actually replaced it on August 31st?

7 A What changed? Well, the change would have just
8 been the date in the addendum, I believe.

9 Q So your recollection is that this note dated
10 August 29th is the exact same except for the date of
11 August 31st? On this note --

12 A I'm sorry. And it's also got a different
13 Exhibit A because on the Exhibit A it would say -- on the
14 new note it would say -- unless this one says it also,
15 let me see -- on the new Exhibit A it talks about --
16 yeah -- you see on Exhibit A here, the 220 and 230?

17 Q No, I don't. Are you talking about the parcel
18 numbers --

19 A Yeah. I'm sorry.

20 Q -- in bold with an asterisk next to them?

21 A Right.

22 Q Yes.

23 A On here the only parcel --

24 Q When you say, "on here," where do you --

1 A I'm sorry. On Exhibit A the only parcel that
2 was collateral, that was remaining collateral was
3 Parcel 220 on the new note because what we did was we
4 allowed them three -- Parcel 300, 290, and 230 are zoned
5 commercial, and Parcel 220 was zoned residential, so when
6 we did the new note in December, we went ahead and put --
7 we took 230 -- we took Parcel 230 out of the collateral
8 and put 220 in the collateral. And so -- and that's
9 not -- it's indicated on the new note and Schedule A.
10 It's not indicated in here. This is the old one.

11 So then, also, on the new Exhibit A, it
12 specifies how much money has to be paid to release
13 Parcel 220 from the existing note to have it -- to have
14 it released. So this just -- but, you know, it's -- this
15 isn't the correct note.

16 Q But --

17 A We changed the collateral. Sorry.

18 Q Okay. From what I've heard you say, the terms
19 of the note are the same between August 29th and
20 August 31st. What changed is the language in Exhibit A,
21 and you said there was an addendum that was also
22 executed?

23 A Correct. There was -- a different collateral
24 was put up for the note. On this note, the collateral

1 was dollar for dollar based on the allocated price in
2 these tables, and what we agreed to instead, to make all
3 the commercial out and only the residential parcel in, we
4 agreed to -- we agreed to put 230 into the -- 230 came
5 out and 220 became the collateral, which meant that there
6 was -- out of the 2 million and change that was assigned
7 to this parcel as collateral, there was only \$1.6 million
8 that was owed to actually get it released from the note.

9 So at this point in time we went in
10 overcollateralized on that -- and so there's -- it says
11 in the new Exhibit A that all you have to do is pay this
12 million six. But to your point about the terms, I'm sure
13 the terms -- the terms are correct except for the date
14 being the 31st.

15 Q And I apologize if I don't have the most
16 current. This is what was provided to me by my client,
17 but I will speak to them.

18 So I'm going to come back to Exhibit A because
19 I'm not sure I understand part of what you're saying, but
20 from what you were testifying earlier, the million
21 dollars, you talked about this excess million dollars
22 tied with conservation easements.

23 You understand what I'm talking about?

24 A Oh, yeah.

1 Q Okay. And I think you said something along the
2 lines that there was a provision in here, in the note,
3 that said you didn't have to pay for it or you might not
4 have to pay for it.

5 A It's in our purchase contract.

6 Q This one with Peekalux (phonetic)?

7 A Yeah.

8 Q Okay. And do you know what section that's in?

9 A Yeah. It's like in the first few pages, page 3
10 or something to that effect. There's a whole section
11 that deals with it. There it is, page 6, 5.1.6.

12 Do you have a copy of this? I know it well,
13 so --

14 MR. WHITE: Do you have an extra copy of that?

15 MR. BUBALA: I do, John. Here's a copy. Why
16 don't I give Nick my copy and you can keep your original
17 copy.

18 THE WITNESS: Okay. All right.

19 And to your question about the note reflecting
20 it, in the note itself it actually specifies that there
21 is -- there's a million dollars in here that does not
22 earn interest.

23 Q Correct.

24 A And in the contract and in here it says it's

1 treated -- we had no other way to treat it. It's an
2 additional advance as treated under the note. It doesn't
3 earn interest, it's not part of the purchase price. It's
4 very clear it is a conservation easement.

5 Q I'm sorry. Can you point to -- I'm a little
6 bit confused here. There's a value placed on the note --

7 A Right.

8 Q -- and there is a -- the opening paragraph is
9 broken down to 5,332,295 and \$1 million.

10 A Right.

11 Q And even though the note says -- so that
12 combined is the 6,332,295 value of the note, but the
13 million dollars isn't owed under the note?

14 A No no. It is owed under the note. We have the
15 right to cancel it because it's the conservation
16 easement. In our contract it gives us until the maturity
17 date of the note to do a conservation easement and
18 give -- and they're entitled to 50 percent of the
19 deduction. It's in this Section 5.1.6 of the contract.
20 It spells it all out.

21 Q Okay. On the note, page 7 of 7, there's a
22 signature line for the borrower.

23 Do you see that?

24 A On page 7, yes.

1 Q And it says -- maybe I'll mispronounce it --
2 for both Rockaway Affordable and Rockaway Workforce, it's
3 signed for by Arcanus Management Corporation as the
4 manager.

5 A Right.

6 Q What is Arcanus Management Corporation?

7 A They're a company. I don't know if they're
8 headquartered in Las Vegas or in Stateline, but
9 they're -- they are or were the managers for both of
10 these LLCs. That's -- it's a business they have here in
11 the state of Nevada, and that's -- so we hired them to be
12 the managers of the company at the time, and there are
13 reasons -- I mean --

14 Well, anyway, it goes into whether or not -- I
15 mean, our partner has affordable housing projects right
16 now in the city of Pacifica, and there's some PR issues
17 with regard to the senior housing there, and it's always
18 in the newspaper about -- for one reason or another,
19 different maintenance and whatnot. So Pacifica is a
20 pretty small town.

21 Anyway, so with this here, Arcanus, or however
22 you pronounce that, they have -- apparently in Nevada you
23 can have -- the ownership is not publicly -- publicly
24 known, and so that's one of the services they provide

1 here under Nevada state law. That's -- and they act as
2 manager. That's just what they do. That's why they
3 signed these documents.

4 Q And who's David Battrick?

5 A He is the -- I don't know if it's his company
6 or -- they're -- like I said, they're located right in
7 Stateline up on Kingsbury Grade. I don't -- I assume --
8 I could say I think it's his company, but I don't know
9 that for sure.

10 Q How did you come across Arcanus?

11 A You know, honestly, I can't remember. I was
12 probably -- probably just looking for something online.
13 I really -- I don't remember how we found these guys.
14 We've got another registration agent somewhere for some
15 other entities that's out of Las Vegas, I think, so
16 that's just what -- and we wanted to use Nevada entities
17 for state tax purposes, so that's why we were looking in
18 the state of Nevada.

19 Q And do you know where Arcanus is incorporated?

20 A Unless I looked it up -- I mean, I don't recall
21 if I ever knew.

22 Q Any other business arrangements with Arcanus?

23 A No. Just acting as manager, and they were --
24 well, yeah. We actually rent -- well, I don't know if

1 it's them. We rent office space from them in Stateline
2 so we've got -- but it's -- the name isn't Arcanus, it's
3 called Kingsbury Executive Suites, so that's -- I mean,
4 we rent office -- we're headquartered at that address,
5 and we rent office space from them.

6 Q What's the tenant entity?

7 A The tenant entity?

8 Q Yes. You say, "we." I'm not sure who "we" is.

9 A Oh, it's a situation where you can have
10 multiple entities on this -- for a single space. So
11 Rockaway Affordable was the primary entity that was on
12 the lease up there, but that also included Rockaway
13 Workforce, and we have a 501(c)(3) that also, I believe,
14 uses that space.

15 Q Is Rockaway Workforce on that lease?

16 A Yes.

17 Q Okay. I don't recall seeing that scheduled
18 among your -- on your statement of financial affairs or
19 schedule.

20 A It's a monthly -- it's a monthly service they
21 provide for the office space. I mean, it's not like it's
22 a 10-year lease or 5-year lease, it's just month to month
23 kind of, but I'll be more than happy to submit a copy.

24 Q I'll defer to your counsel. I don't know that

1 you have a choice on not disclosing that, but, again,
2 it's up to you and your counsel to decide how to handle
3 that.

4 A That's fine. I'll be more than happy to email
5 a copy or whatever.

6 MR. WHITE: There's one amendment.

7 BY MR. BUBALA:

8 Q As much as I wish I had what you've described
9 as the second -- the changed Exhibit A to the note, let
10 me see if I can try to restate or recite what you've said
11 because I don't think I can do it.

12 In terms of the four other parcels, the 620 is
13 the large parcel --

14 A Right.

15 Q -- that this debtor, your entity here, has an
16 ownership interest in?

17 A Okay.

18 Q So we have the August 29th note in front of us
19 which lists four parcels which were pledged as security
20 or -- I'm sorry -- that were sold to Rockaway
21 Affordable --

22 A Correct.

23 Q -- and/or Rockaway Workforce.

24 And as I understood, you said Parcels 300, 290,

1 and 230 are commercial, commercially zoned, and 220 is
2 residentially zoned?

3 A Right.

4 Q And I'm sorry. I was not clear as to what the
5 change was in the revised note dated two days later. You
6 made a reference of removing or changing something about
7 the parcels, and I apologize for not --

8 A No, no, no. That's okay.

9 Just to be clear, the new note -- the note
10 wasn't actually changed until December. It was about
11 mid-December when the new note got done.

12 Q Okay.

13 A They were trying to close on their financing.
14 They had -- they had put up this note as collateral to
15 another lender, and that lender wanted the original note
16 plus they would not -- they would not -- well, I don't
17 want -- we'll deal with that later. I want to answer
18 your question.

19 So with regard to the parcels here, so the note
20 was done actually in mid-December. As it was going
21 forward and they were trying to close with the -- they
22 were getting, like, 2.8 million against this from some
23 other lender, and so they couldn't close because the
24 person -- the company that's on here, their exchange

1 accommodator, IPX, I think their name is, they lost the
2 original note and they wanted to use a photocopy, which I
3 refused to go along with, and their lender was not happy
4 with, I believe, using a photocopy as well. I certainly
5 wasn't going to agree to it. So we did agree to execute
6 a new original note for them as long as they recorded a
7 deed of reconveyance on the old one.

8 So at that time we also were thinking of
9 developing the commercial property down -- because these
10 three commercial parcels are located down adjacent to
11 Highway 1 in Pacifica. So at the time we were thinking
12 that, okay, maybe we will find a commercial developer who
13 wants to go ahead and develop that -- whatever -- I think
14 it's about an acre and a half of the total, something
15 like that, and it would have been complicated because one
16 of the parcels, the 230, was going to be included in the
17 deed of trust and note.

18 So to make that clean, we decided to go ahead
19 and take the commercial property free and clear and let
20 them have the 220 parcel as the collateral, which was
21 worth more than -- anyway, like I said, we had been doing
22 dollar-for-dollar lien releases even from the day we
23 closed escrow, so on here we just agreed to do that
24 because it freed up the commercial property. We actually

1 swapped some out, I think is how it went, but the bottom
2 line is, 220 stayed in and everything else was out.

3 And so that change was made at that time,
4 because that actually -- we were overcollateralized, but
5 that's okay because we wanted the three commercial
6 properties free and clear so nobody had to deal with the
7 note and deed of trust if they came in.

8 Q So not trying to put words in your mouth, but
9 let me try to put it in my language, and tell me if I've
10 got this right.

11 So based on what my clients had to do when they
12 were pledging all this, the note was gone, so you wrote a
13 new note. Based on the payments that your client or your
14 entity had already made, they went ahead and did the
15 reconveyance or the release of the deed of trust on the
16 three commercial properties, 300, 290, and 230?

17 A No, not exactly. When we closed escrow,
18 some -- when we closed escrow, there were -- two parcels
19 were covered by the -- it should be in the note and
20 deed -- in the deed of trust. When we closed escrow, two
21 of the parcels were, I believe, included in the deed of
22 trust and two were out, and so when we did the new
23 note -- so right at the day we closed escrow, okay,
24 because we paid 2.7 million at the close of escrow,

1 \$2.7 million for the property came out free and clear
2 right from day one.

3 So when we redid the note in December, it
4 was -- we reshuffled that, so it was like to get that
5 extra commercial property. So we ended up putting 220 in
6 to get the smaller commercial property out, and like I
7 said, it was a convenience factor, so now we could do a
8 deal with somebody on the commercial. So that's --

9 Q I understand what you're saying. Okay.

10 What's your source of funding for the purchase?
11 The funds that were put into escrow, what was your source
12 of funding?

13 A It came from the LLC members, primarily the
14 partner.

15 Q And who were the LLC members of Rockaway
16 Workforce?

17 A Rockaway Highlands primarily put up most of the
18 money for the properties, and they went their separate
19 way in September of 2017.

20 Q Okay. At the time of the purchase, let's say
21 August 2016, how many members were there in Rockaway
22 Workforce Housing Partners?

23 A There were two members in each entity, two
24 members in Rockaway -- they were identical, Rockaway

1 Affordable and Rockaway Workforce, two members.

2 Q And who were those two members?

3 A Pacifica Highlands -- no, sorry. Rockaway
4 Highlands, LLC and Pacifica Affordable Housing Partners.

5 Q Okay. And who were the members of Rockaway
6 Highlands?

7 A It's a family. I don't actually know the exact
8 membership makeup of that. It's just a family that used
9 to be clients or -- I've known them for a long time.
10 They're friends of ours. I helped them buy some senior
11 housing and some other stuff.

12 Q What's the family's surname?

13 A The last name is Ngo, N-g-o.

14 Q Okay. And where are they out of?

15 A Out of?

16 Q Where do they live?

17 A In the South Bay, all around the South Bay
18 Area.

19 Q So Julia Ngo?

20 A Yeah, Julia Ngo. She's the main spokesperson
21 or whatever you want to -- representative.

22 Q And then the other entity, Pacific -- I'm
23 sorry --

24 A Pacifica.

1 Q -- Affordable Housing Partners, LLC, who are
2 the members of that entity?

3 A That entity is owned by a trust right now. It
4 was owned by my mother, and that entity is now owned by a
5 trust for my son.

6 Q What's the name of the trust?

7 A Global Resource Trust.

8 Q And who's the trustee of that?

9 A Kevin Gallagher.

10 Q Who is Kevin Gallagher?

11 A Somebody I've known for a long time.

12 Q Is he a baseball player?

13 A No.

14 Q Convict?

15 A No. He's just somebody I've known for a long
16 time.

17 Q Where does Mr. Gallagher live?

18 A Chicago or Chicago area.

19 Q Okay. What does Mr. Gallagher do for a living?

20 A Honestly, I don't know anymore. He had his own
21 company for many years. He had various messenger
22 companies and I'm not sure what all. I am not sure
23 exactly what he's doing right now. I know he's working
24 for -- I think it's a related type of delivery company.

1 They do a lot of work with Amazon and a bunch of other
2 people or companies they make deliveries for.

3 Q And what's the value of the trust?

4 A Just what these assets are.

5 Q The trust has no other assets?

6 A No.

7 Q You scheduled -- I'll call it IPX or -- what is
8 it? -- Investment Property Exchange Services --

9 A Right.

10 Q -- is a creditor in this case?

11 A Only because the note was -- had their name on
12 it. Honestly, I don't know who owns the note right now.

13 Q Okay.

14 A IPX is on this note, and it's on the new note,
15 because they were doing an exchange -- I understand
16 that -- then they used this note as collateral for a new
17 note with Owens Financial Mortgage. They're a publicly
18 traded REIT.

19 I got a notice in the mail from Owens Financial
20 telling me the note and deed of trust had been assigned
21 to them, and then on the -- I think on the NOD or
22 something like that or on the trustee sale it says that
23 IPX is on there as the entity foreclosing or something
24 like that, so I'm totally confused. I don't know who

1 owns what over there.

2 Q Okay.

3 A So we just put everybody.

4 Q Do you have a copy of the petition that was
5 filed on this case?

6 A I'm sure somewhere.

7 Q I'm sure John does. I'll give you a copy of
8 the petition. It's Docket No. 1. If you turn to the
9 back, page 4 --

10 A Okay.

11 Q -- you signed it here as John Hickey as
12 president?

13 A Of Workforce Housing.

14 Q But the note was signed by somebody else.

15 A Yeah. The note was signed by the manager of
16 the LLC.

17 Q Why did the manager sign the petition?

18 A Because I gave him the authority to do so.
19 It's a -- we have officers and we have a manager for the
20 LLC, and the officers have been empowered to do all the
21 transactions for the LLC.

22 Q I'm curious. Who told you that a Nevada LLC
23 can have officers apart from the manager?

24 A I don't recall. I don't know. It's just in

1 the operating agreement that we got from the Arcanus
2 Management Company.

3 Q Okay. Does Mr. Battrick know you filed for
4 bankruptcy?

5 A I don't know if he does or not. We were
6 replacing him. I sent him -- I think I sent him
7 something. When we did the -- when Rockaway Highlands
8 was taken out, their redemption, the document we did
9 redeeming them out, it was indicated that I was going to
10 take over as manager on the LLC. So I sent those up to
11 Mr. Battrick or whatever his name is. I mean, that's --
12 he got notice that he's no longer manager.

13 Q Okay. Do you have a copy -- do you keep a copy
14 of whatever you sent him?

15 A I'm sure we do. I don't know if I have a copy
16 of it with me.

17 Q Okay. That's something your counsel can
18 provide to me?

19 A Oh, yeah.

20 MR. WHITE: A copy of what now?

21 THE WITNESS: Where we informed David Battrick
22 that he was no longer manager. We sent him a copy of the
23 resolution to the redemption agreement. So in there, in
24 this resolution, it states -- one of the things it states

1 is that I'm taking over as manager for the LLC.

2 BY MR. BUBALA:

3 Q The Caltrans parcel, you understand what that
4 is?

5 A Yes.

6 Q It's the 5 acres?

7 A Right.

8 Q Do you have a current agreement with the State
9 of California, Caltrans, whoever the owner of that parcel
10 is, do you have an agreement to purchase that from them?

11 A Here's the letter they wrote to the City of
12 Pacifica in February telling the City they're -- we've
13 got the authority to file development plans on the site
14 and they're going to sell it to us, and I say "sell it to
15 us" because there's some code sections that they sent me
16 that that's how it's listed in the code. So it --

17 MR. WHITE: Did you bring any copies of that?

18 THE WITNESS: You know, John, I don't think I
19 have that, but I can certainly make those code
20 sections --

21 MR. BUBALA: Afterwards can you make a couple
22 copies of these for us.

23 THE CLERK: Sure.

24 /////

1 BY MR. BUBALA:

2 Q Keep that there, and I won't take up the time
3 reading that right now.

4 I think you answered this before. You said on
5 your schedules, when you valued Parcel 620 --

6 U.S. TRUSTEE STROZZA: How many copies do you
7 need?

8 MR. WHITE: Just two, I guess.

9 MR. BUBALA: I think so. Or maybe three if --

10 BY MR. BUBALA:

11 Q The two parcels, 620 and the Caltrans parcel on
12 which you had the appraisal, that was an appraisal that
13 was done by my clients?

14 A The 620 parcel, your clients did the Cushman
15 Wakefield appraisal. It was 20,300,000.

16 Q And then for the Caltrans parcel, you have an
17 appraisal that says its value is based on the appraisal
18 of 8.86 million?

19 A Right.

20 Q Who did that appraisal?

21 A A firm who's down out of Los Angeles did that.

22 Q Do you know the name of the firm?

23 A No, not offhand. It was a couple years ago. I
24 don't remember.

1 Q And who commissioned that appraisal?

2 A I don't know. I'm not sure if it was Rockaway
3 Workforce or if it was Rockaway Affordable. I can't
4 remember who commissioned that appraisal. You're talking
5 who's on the cover letter; right?

6 Q Presumably.

7 A Yeah. It might have been Rockaway Workforce as
8 well. I'm not really sure. It included those four
9 parcels. That's why I say it might -- I mean, it might
10 have been Rockaway Affordable. That's why I don't really
11 remember who commissioned it.

12 Q Okay. Do you have a copy of the appraisal?

13 A Not with me I don't, no.

14 Q Do you have a copy in your office or personal
15 possession?

16 A Oh, yeah. I can get you a copy, sure.

17 Q Is that something your counsel can provide me
18 with?

19 A Yeah.

20 Q Okay. Thank you.

21 And on the schedule listing the creditors,
22 you've listed Pacific Conservation, LLC.

23 Is it safe to assume that means Pacifica
24 Conservation?

1 A Oh, yeah, yeah, yeah.

2 Q Thank you.

3 And you've checked the box on here that says
4 the claim of Pacifica and of Seventeen on all the four
5 entities is disputed.

6 Can you describe the nature of that dispute for
7 me?

8 A It's the \$1 million conservation easement.

9 Q Okay.

10 A Settlement or fee, whatever it's called in the
11 purchase contract.

12 Q You've scheduled one unsecured creditor, BKF
13 Engineers?

14 A Correct.

15 Q And who's your contact person with BKF?

16 A I think it's probably Roland Haga.

17 Q Roland Haga?

18 A Haga, H-a-g-a.

19 Q Okay. And what did BKF Engineers do for
20 Rockaway Workforce Housing Partners?

21 A They've done all the engineer's work for the
22 site so far. I've got -- I've got some drawings you can
23 have. It's just something -- I mean, there's --

24 Q Have they been paid by anybody else?

1 A Oh, yeah.

2 Q Who else is paying their bill?

3 A Rockaway Affordable was paying them; Rockaway
4 Highlands was paying them; Julia Ngo directly, their
5 architects, lawyers. But, again, they weren't paid from
6 Rockaway Workforce, so...

7 Q Okay. And Rockaway Affordable, Rockaway
8 Highlands, and Ms. Ngo, are they jointly liable for the
9 debt owed to BKF Engineers?

10 A I don't know. I don't remember. Not to be --
11 I don't recall. They were -- it depends who's -- well,
12 they wouldn't be -- they wouldn't be now because I
13 believe that 27,000 is for the latest work I had done
14 which is for the -- all the engineer's work for the
15 Caltrans site to put in the roadways, draw up the
16 roadways and four-way intersection and the completed
17 pads.

18 Q Okay. Do you have an engagement with BKF
19 Engineers?

20 A Probably somewhere, yeah. I'll look for it.
21 There might be one. I will tell you this much: It's
22 just kind of -- the project has been rolling along for
23 almost three years with those guys, so I'm sure they're
24 not -- there's -- nobody's -- I don't know. I'd be

1 surprised if there's an engagement letter that's really
2 right on point anymore, but I'll get you whatever there
3 is.

4 Q Okay. Schedule F -- I'm sorry -- Schedule H of
5 the bankruptcy schedules is something called co-debtors.
6 The note is made both by Rockaway Affordable and Rockaway
7 Workforce.

8 A Right.

9 Q Do you agree that Rockaway Affordable is a
10 co-debtor?

11 A No.

12 Q It's not?

13 A No. Because Rockaway Affordable had title to
14 the four parcels, which as of last September they
15 executed -- first of all, three of the parcels, when the
16 new note was done in December, Rockaway Affordable had
17 free and clear. The fourth parcel that was in Rockaway
18 Affordable's name, they recorded a deed of reconveyance
19 for it in September of 2017 when they got the million
20 six, so they're gone.

21 Q Was there a release of the note given to
22 Rockaway Affordable?

23 A It's a nonrecourse note. There's no liability.
24 I mean, if we sell the property, there's not even a

1 requirement that the buyer has to assume the note. They
2 can take it subject to. It says so right in the note.

3 Q Have you ever been party to other litigation?

4 A Yes.

5 Q You personally?

6 A Yes.

7 Q How many cases?

8 A I don't know.

9 Q Okay. Have you ever been charged criminally?

10 A Yes.

11 Q Have you been convicted?

12 A Yes.

13 Q In federal court?

14 A Yes.

15 Q I'm not sure you recognize it, but there's a
16 copy of an opinion from the U.S. Ninth Circuit Court of
17 Appeals. Is that you, John A. Hickey?

18 A Yes.

19 Q Okay. And do you know a Lee and Linda Vinker?

20 A They were two limited partner investors that
21 were part of some real estate mortgage fund syndications
22 back in 1990.

23 Q And do you owe a judgment to them?

24 A To them? I don't know. There's a class action

1 judgment.

2 Q Has that been paid?

3 A No.

4 Q Okay.

5 A But I will say this: The SEC shut down our
6 company in 1994 wrongfully. Three years later I was
7 indicted, in 1997. Eleven years after they took our
8 company over in 2005, I finally went to trial with
9 evidence destroyed, and I refused to do a plea deal so I
10 could defend myself, which was a sham going on in that
11 courtroom. So all this stuff here, I don't -- it doesn't
12 make any difference what you bring up.

13 Q Any other criminal convictions?

14 A No.

15 Q Any other judgments against you?

16 A I don't -- I don't -- the restitution judgment
17 is the same as the -- it's the same as the class action.

18 Q Have you satisfied the restitution judgment
19 from the federal conviction?

20 A No.

21 Q Have you satisfied the judgment in the class
22 action suit?

23 A No. They're one and the same. No. Well,
24 they're not -- they're a dollar-for-dollar offset. Even

1 though they're differing amounts, it's the same thing.

2 Q Okay. I'd like to ask some questions based on
3 your prior testimony today.

4 Do you know the name of the person at Caltrans
5 that you've been dealing with?

6 A Yes. Bob McPherson.

7 Q And where is he out of?

8 A He works out of the Oakland office. It's on
9 the -- if you look at the letter, it's on there.

10 Q I have a Mark Weaver, but enough for now.

11 A Mark Weaver is the current deputy district
12 director. If you look, you will probably see -- he
13 didn't cc himself. There's a 2009 letter that we
14 received from -- that we received from the secured
15 creditors, and they have -- that letter in there is from
16 Caltrans explaining the abutter's rights on the property,
17 so they gave it to us as part of our due diligence
18 material, and that is signed by Bob McPherson because he
19 was the deputy district director at the time.

20 Q Fair enough.

21 A But all my communications are really through
22 Bob McPherson because that's what Mark Weaver brought him
23 in to do.

24 Q You said on the Caltrans parcel you have a

1 letter of intent from some sort of assisted living
2 company?

3 A Correct.

4 Q What's the name of that company?

5 A Senior Housing Advisors.

6 Q Where are they located?

7 A I believe out of Portland, Oregon. Yeah, I'm
8 pretty sure.

9 Q And who's the person that you deal with there?

10 A Steve Stubblefield.

11 Q And is he also in Portland?

12 A It's Lake Oswego, Oregon. Yes, I believe so.

13 Q Okay. And when did they give you a letter of
14 intent for the best of your knowledge?

15 A The last one was May 25th.

16 Q Okay. 2009?

17 A Yes.

18 Q And is it binding?

19 A No. There was an earlier version, but they had
20 to clean it up, so they redid it on May 25th. They're in
21 the process of putting a PSA together right now.

22 The reason I haven't executed a PSA agreement
23 with them to date is because of the outstanding issue
24 with the Caltrans, and so even though we've got

1 permission to file the plans with the City of Pacifica, I
2 don't want -- and they understand that fully, that
3 Caltrans still has the title to that property. I'm a
4 little bit leery about executing a contract with them
5 before we have resolved the issue with Caltrans over
6 whether or not we've got to pay them, you know, a dollar
7 for their property, so that's where that's --

8 Q Okay. I heard you testify, I believe, that
9 you're bringing in a partner who has acquired 50 percent?
10 I'm sorry. You didn't say very much about it, and so I
11 don't know that I can ask you.

12 A We're bringing in West & Praszker,
13 P-r-a-s-z-k-e-r, Realtors, Inc. They're taking a
14 50 percent interest, and they're going to be putting up
15 the funds for us to develop the Caltrans property and
16 move this forward.

17 Q And how much are they paying for 50 percent
18 interest?

19 A That's -- we don't know yet what their capital
20 requirements are going to be. There's the \$500,000
21 payment that your clients are owed, and there's
22 \$1.8 million in another payment that's due on August 31st
23 so it's just -- it's not clear.

24 Q Okay. And where is West & --

1 A They're in San Francisco, California. They're
2 a real estate brokerage firm.

3 Q Okay.

4 A They also do some development.

5 Q Okay. And who do you deal with there?

6 A Mike Klestoff, K-l-e-s-t-o-f-f.

7 Q And --

8 A They are the ones that put up -- they're the
9 ones that put up the \$15,000 retainer for John White.

10 Q And have you worked with this West & Praszker
11 before?

12 A Yes.

13 Q And when did you work with them?

14 A They were a brokerage firm in San Francisco
15 that we had done business with. They sold a number of
16 properties that my wife's family owned over the years. I
17 mean, I've known them for probably 20 years. I've known
18 Mike for probably that long, but in a brokerage capacity.

19 Q Okay. And do you have a written agreement with
20 West & Praszker?

21 A Not at this time, no.

22 Q And how do you know they're willing to become a
23 50 percent partner?

24 A Because we've talked about it in Mike's office.

1 Q Okay. And when did you talk about it?

2 A The last time we talked about this was either
3 last week or the week before.

4 Q Okay.

5 A And we talked about it before because they put
6 up the funds for John's retainer.

7 MR. BUBALA: Okay. I don't think I have any
8 other questions right now.

9 U.S. TRUSTEE STROZZA: Okay. I don't have
10 anything further.

11 Will that conclude the meeting of creditors?

12 MR. BUBALA: Yes.

13 U.S. TRUSTEE STROZZA: Thank you, and the
14 meeting is concluded.

15 (Proceedings concluded.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, PEGGY B. HOOGS, Certified Court Reporter
5 in and for the State of Nevada, do hereby certify:

6 That the foregoing transcript was prepared
7 from an audio recording of proceedings for which I was
8 not present; that the proceedings were reported
9 stenographically by me from the audio recording and
10 thereafter transcribed via computer under my supervision;
11 that the foregoing is a full, true and correct
12 transcription of the audio-recorded proceedings to the
13 best of my knowledge, skill and ability.

14 I further certify that I am not a relative nor
15 an employee of any attorney or any of the parties, nor am
16 I financially or otherwise interested in this action.

17 I declare under penalty of perjury under the
18 laws of the State of Nevada that the foregoing statements
19 are true and correct.

20 Dated this 5th day of July, 2017.

21 
22 _____
23 Peggy B. Hoogs
24 CCR #160, RDR, CRR